S.B. CIVIL WRIT PETITION NO. 814/2005.
(RAM NARAIN MEGHWAL VS. UNION OF INDIA)

DATE OF ORDER : 19.7.2006.

HON'BLE MR. GOVIND MATHUR, J.

Mr. Yogesh Sharma for the petitioner/s.
Mr. Kuldeep Mathur for the respondent/s.

An application is preferred by the petitioner to implead the Secretary to the Government of India, Ministry of Labour, New Delhi as respondent No.4.

The application is allowed. The Secretary to the Government of India, Ministry of Labour, New Delhi is ordered to be impleaded as party respondent to the proceedings.

Shri Kuldeep Mathur, learned counsel under the instructions of this Court accepts notices on behalf of the respondents No. 1 and 4.

Heard counsel for the parties.

By the order dated 24.12.2003, the under Secretary to the Government of Rajasthan, Ministry of Labour refused to make reference of the Industrial Disputes raised by the petitioner – workman on the count that he was not appointed by

the Management of Airport Authority of India but was engaged by the Contractors who were awarded the work of annual running operation, maintenance of D.G. Sets, electrical installations, water coolers and package units etc.

The contention of counsel for the petitioner while assailing validity and propriety of the order dated 24.12.2003 is that the appropriate government is not required to adjudicate the Industrial Dispute on merits.

The question as to whether the petitioner was employed by the Contractors or by the Airport Authority of India is a question that is required to be adjudicated by the competent Labour Court or Industrial Tribunal as the case may be.

A reply to the writ petition has been filed on behalf of the Airport Authority of India stating therein the petitioner was appointed by the Contractor and not by the Airport Authority of India.

The question as to whether the petitioner was appointed by the Airport Authority of India or by the Contractors is required to be decided on basis of the evidence after adjudication of the dispute. It was not open for the appropriate

government while exercising powers under Section 12(5) of the Industrial Disputes Act, 1947 to refuse to make reference by adjudicating the dispute on merit.

Accordingly, the refusal to make reference by the Notification dated 24.12.2006 is illegal and the same, therefore, is quashed. The appropriate government is directed to consider the question with regard to reference of the industrial dispute afresh.

The writ petition is disposed of accordingly.

(GOVIND MATHUR)J.

Anil/